

# **EXHIBIT B**

O'Grady Final

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

-----X  
ALEXANDER STYLLER, INTEGRATED  
COMMUNICATIONS & TECHNOLOGIES, INC.,  
JADE CHENG, JASON YUYI, CATHY YU,  
CAROLINE MARAFEO CHENG, PUSHUN CHENG,  
CHANGZHEN NI, JUNFANG YU, MEIXIANG  
CHENG, FANGSHOU YU, and CHANGHUA NI,

Plaintiffs,

-against-

Civ. No.  
1:16-CV-10386(LTS)

HEWLETT-PACKARD FINANCIAL SERVICES  
COMPANY, HEWLETT-PACKARD FINANCIAL  
SERVICES (INDIA) PRIVATE LIMITED,  
HP INC., HEWLETT PACKARD ENTERPRISE  
COMPANY, and DAVID GILL,

Defendants.

-----X

November 10, 2020  
9:03 a.m.

Remote video deposition of JAMES O'GRADY, taken  
by Plaintiffs via video teleconference, pursuant  
to Notice, at the offices of Choate Hall &  
Stewart, LLP, Two International Place, Boston,  
Massachusetts 02110, before Anneliese R. Tursi, a  
Registered Professional Reporter and Notary  
Public within and for the State of New York.

O'Grady Final

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A P P E A R A N C E S

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ALEXANDER STYLLER

MARIO BARREDO, Videographer

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED

by and between the attorneys for the  
respective parties herein that filing and sealing  
be and the same are hereby waived.

IT IS FURTHER STIPULATED AND

AGREED that all objections, except as to the form  
of the question, shall be reserved to the time of  
the trial.

IT IS FURTHER STIPULATED AND

AGREED that the within deposition may be signed  
and sworn to before any officer authorized to  
administer an oath with the same force and effect  
as if signed and sworn to before the Court.

IT IS FURTHER STIPULATED AND AGREED

that there is no objection to the court reporter  
administering a binding oath to the deponent

O'Grady Final

remotely.

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1 J. O'GRADY

2 THE VIDEOGRAPHER: Good morning. We  
3 are now on the record. The time is now  
4 9:03 a.m. on Tuesday, November 10th, 2020.

5 This begins the videotaped deposition  
6 of James O'Grady, taken in the matter of  
7 Alexander Styller, et al., versus Hewlett  
8 Packard Financial Services Company, et al.,  
9 filed in the United States District Court,  
10 District of Massachusetts, case number of  
11 which is 1:16-CV-10386 (LTS).

12 My name is Mario Barredo. I'm the  
13 remote videographer today. The court  
14 reporter is Anneliese Tursi. We are  
15 representing Esquire Deposition Solutions.

16 As a courtesy, will everyone not  
17 speaking, please mute your audio, and  
18 remember to unmute when you are ready to  
19 speak.

20 Counsel, will you please state your  
21 name and whom you represent, after which

O'Grady Final

22 the court reporter will swear in the  
23 witness.

24 MR. JOFFE: Dimitry Joffe, Joffe Law  
25 P.C., 765 Amsterdam Avenue, 2C, New York,

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1 J. O'GRADY

2 New York, 10025. I represent plaintiffs.

3 MR. BUNIS: Michael Bunis. The firm  
4 is Choate, Hall & Stewart, and we represent  
5 the defendants and the witness in this  
6 case.

7 J A M E S O ' G R A D Y

8 residing at 27 Denworth Bell Circle,  
9 Haverhill, Massachusetts 01835, having been  
10 first duly sworn/affirmed by the Notary  
11 Public (Anneliese R. Tursi), was examined  
12 and testified as follows:

13 EXAMINATION BY MR. JOFFE:

14 Q. Good morning, Mr. O'Grady.

15 A. Good morning.

16 Q. My name is Dimitry Joffe. I represent  
17 plaintiffs, as you heard. I'll be asking you  
18 some questions today.

O'Grady Final

19 If you could, please, just state your  
20 name for the record, please.

21 A. My name is James O'Grady.

22 Q. Thank you.

23 Mr. O'Grady, were you prepared by your  
24 attorneys for this deposition?

25 A. I had a couple of meetings prior, to

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6

1 J. O'GRADY

2 prepare for the deposition, just the scheduling  
3 of it.

4 Q. Okay. And you had one deposition  
5 preparation session, then?

6 A. I had a meeting last Wednesday which  
7 was more of timing. And then I had a meeting  
8 yesterday for several hours. And that's it.  
9 That's the extent of it.

10 Q. So I take it your lawyers explained to  
11 you what deposition is. Right?

12 A. They did.

13 Q. And have you been deposed before?

14 A. I have not been deposed. This will be  
15 my first time.

O'Grady Final

16 Q. Okay. So I think the most important  
17 part about deposition is that it is not a typical  
18 conversation, you know. Because you are  
19 testifying under oath, which means that, you  
20 know, if your answers are not truthful, they may  
21 subject you to liability for perjury. You  
22 understand that. Right?

23 A. I understand.

24 Q. And you are prepared to testify  
25 truthfully today. Correct?

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1 J. O'GRADY

2 A. That is correct.

3 Q. Okay. And there is nothing that would  
4 prevent you from doing so, any medication, maybe  
5 drugs. No?

6 A. No.

7 Q. If you don't understand my question,  
8 please ask me, and I will try to rephrase it. Or  
9 maybe not. But I will try to accommodate you if  
10 you don't. I want you to understand my question.

11 And I want you to answer my questions  
12 audibly so the court reporter can take it down.



O'Grady Final

13 So you should say yes or no, rather than just,  
14 you know, nodding saying, yeah, yup, something  
15 like that.

16 What is your current position at the  
17 company?

18 A. Currently, my position is vice  
19 president of global asset management.

20 Q. And is it HPFS, or any other entity?  
21 Which is -- vice president of which entity?

22 A. Of HP Enterprise Financial Services.

23 Q. And what was your position back in  
24 2010/2013 period?

25 A. That would have been director of asset

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1 J. O'GRADY

2 management.

3 Q. A director you said?

4 A. That's correct.

5 Q. Can you explain me, because I'm  
6 familiar with the terms director, meaning  
7 somebody who sits on the board of directors. Is  
8 that what you have in mind, member of the board  
9 of HPFS?

O'Grady Final

10 A. No.

11 Q. So I suspect that you use director  
12 meaning something different. Right?

13 A. That's correct.

14 Q. So it is a title. And is it below the  
15 vice president, the director, or is it above the  
16 vice president?

17 A. It is below a vice president.

18 Q. So you then, you were promoted since  
19 back 2010/2013. Right?

20 A. That's correct.

21 Q. And when did you get your promotion to  
22 a VP?

23 A. I don't recall exactly when it was,  
24 but I believe it to be within the last 2 to 2-1/2  
25 years.

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1 J. O'GRADY

2 Q. Thank you. When I ask you when, you  
3 know, I ask you to give me the date to the degree  
4 you remember. So when I ask when, it doesn't  
5 necessarily mean I'm looking for specific date.  
6 If you don't remember the date, tell me the

O'Grady Final

7 month. If you don't remember the month, tell me  
8 the year. Okay? So I understand we don't  
9 remember specific dates, but at least general  
10 sense.

11 In 2010/2013, whom did you report to?

12 A. I reported to a person named Gerri  
13 Gold.

14 Q. And that person was who?

15 A. She was the vice president -- I  
16 believe she was the vice president of global  
17 marketing.

18 Q. That's also at HPFS. Right?

19 A. She is also at HPFS. Again, I have  
20 to -- I'm not sure of her exact title back then.

21 Q. All right. But she was, what I'm  
22 trying to here understand, she was not part of  
23 legal department. Right? She was a business  
24 person.

25 A. That's correct.

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1 J. O'GRADY

2 Q. You didn't report to anyone from the  
3 legal department. Correct?

O'Grady Final

4 A. No.

5 Q. So, but legal department, people like  
6 David Gill, Brian Slattery, Stuart Patterson,  
7 they were -- how were your interactions with  
8 them? Were you just parallel functions in the  
9 same organization, or were they, you know, kind  
10 of central function? I want to understand what  
11 your relationship with the legal was at the  
12 company?

13 MR. BUNIS: Objection: vague.

14 If you understand the question, you  
15 can answer.

16 A. Yes, it is a bit vague for me.

17 Q. It is vague. Okay. I understand it  
18 is vague. I'm not trying to trick you. I'm  
19 trying to understand the kind of the corporate  
20 structure. I've been asking everyone this  
21 question. I still couldn't quite figure out.  
22 I'll explain why. I used to work at the big  
23 corporation as well. In the legal department.  
24 That was Philip Morris International.

25 We had the legal department, central

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O'Grady Final

1 J. O'GRADY

2 function. We were sitting on the Lake Geneva in  
3 Switzerland enjoying beautiful life. And when we  
4 had problems, we traveled to Egypt, or markets,  
5 depending where the problem was. If the problem  
6 was in the market in the particular country, we  
7 tried to fix it there. If the problem is in the  
8 region, like you have APJ we would go and fix it  
9 there.

10 But we were the bosses. You know? If  
11 a lawyer comes from headquarters and tell them to  
12 do something, they listen.

13 Is that something that -- that's what  
14 I'm trying to understand. You have a central  
15 legal function. You have legal department. And  
16 then you have a different business entities in  
17 Massachusetts, in India, in China. You know,  
18 everywhere. And I'm trying to understand how you  
19 guys work together.

20 Is the legal department the central  
21 function at HP that kind of works parallel with  
22 regions and markets?

23 Or how do they structure the  
24 relationship between business and legal side of

O'Grady Final

25 it?

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1 J. O'GRADY

2 I will explain why is it important in

3 this case later.

4 MR. BUNIS: Objection: vague.

5 You can answer it, if you understand.

6 A. I don't understand how the legal

7 department is structured within HPE.

8 Q. Did you report to David Gill?

9 A. No.

10 Q. Did he report to you?

11 A. No.

12 Q. Is it fair to say that legal

13 department has its own line of reporting

14 independent of, well, business side?

15 MR. BUNIS: Objection.

16 You can answer if you know.

17 A. I don't know exactly how it worked in

18 at that time.

19 Q. Okay. Back in 2010/2013, who reported

20 to you? I guess it is a large group of people,

21 but, more specifically, did J.T. Silvestri report

O'Grady Final

22 to you?

23 A. Back then J.T. worked for me directly.

24 Q. And how about Kevan Bartley?

25 A. Back at that time Kevan Bartley worked

13

1 J. O'GRADY

2 for me directly as well.

3 Q. And how about Tom Harris?

4 A. Back in that time Tom did not work for  
5 me directly.

6 Q. He didn't. Okay. How about  
7 indirectly? Did he work for you indirectly?

8 A. Tom at that time worked for J.T.  
9 Silvestri directly.

10 Q. Okay. So he was in your reporting  
11 chain just one step below? It was you. Then  
12 Silvestri, then it would be Harris, and then I  
13 guess Bartley, somebody else as well. Right?

14 A. That's right.

15 Q. Okay. Did you talk to Gill or Bartley  
16 after their depositions last week?

17 MR. BUNIS: You broke up a little bit,  
18 Dimitry. Can you just repeat that.

O'Grady Final

19 Q. Did you talk to Bartley or Gill after  
20 their depositions last week?

21 A. Yes.

22 I'm sorry. I did not talk to David  
23 Gill, but I did talk to Kevan Bartley in the  
24 normal course of business.

25 Q. Did you discuss his deposition with

14

1 J. O'GRADY

2 him?

3 A. I did not.

4 Q. You were not curious about that?

5 A. I'm curious about a lot of things, but  
6 I did not talk to Kevan about the deposition.

7 The only thing I talked to him about  
8 is the -- which building to go to. That's it.

9 But no details of the deposition.

10 Q. Do you know that you were scheduled to  
11 testify as a corporate designee of defendants  
12 until this morning? Did you know that?

13 MR. BUNIS: Objection. Calls for a  
14 legal conclusion.

15 You can answer if you understand.



O'Grady Final

16 A. I didn't know what the status was.

17 Q. Did you know that you were at some  
18 point a designee to testify at deposition on  
19 behalf of corporations, HP, HPI, HPFS India?

20 MR. BUNIS: Objection. Calls for a  
21 legal conclusion.

22 You can answer if you understand.

23 A. I'm not sure I understand.

24 Q. I will explain to you.

25 Defendants' lawyers told me for a

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1 J. O'GRADY

2 couple of weeks that you, Mr. O'Grady, will be  
3 representing corporate defendants, HPE, HPI, HPFS  
4 India. Did you know about this?

5 MR. BUNIS: Objection. Calls for a  
6 legal conclusion.

7 You can answer if you understand.

8 A. No.

9 Q. You didn't know about this? I'm  
10 sorry --

11 MR. BUNIS: Objection: asked and  
12 answered.

O'Grady Final

13 MR. JOFFE: Hold it. Hold it. Hold  
14 it.

15 Q. Your lawyers represented to me in  
16 writing several times for the last few weeks that  
17 you, Mr. O'Grady, will be the designated  
18 representative on behalf of HPE, HPI, HPFS, and  
19 you will answer my questions about criminal  
20 investigation in China in 2013. You didn't know  
21 about that?

22 MR. BUNIS: Objection. Calls for a  
23 legal conclusion.

24 You can answer if you understand.

25 A. I think I heard two questions in

16

1 J. O'GRADY

2 there.

3 Q. Well, it doesn't matter how many you  
4 heard. I'm asking one.

5 Have you heard that you were  
6 designated as a corporate representative to  
7 testify last week and this week? Did you know  
8 that?

9 MR. BUNIS: Objection. Calls for a

O'Grady Final

10 legal conclusion.

11 You can answer if you understand.

12 A. No.

13 Q. Did you know that Mr. Bartley is also  
14 designated as a corporate representative, along  
15 with yourself, to testify on behalf of  
16 corporations?

17 You didn't know that, too?

18 MR. BUNIS: I'm sorry, on behalf of  
19 what? I didn't hear what you said.

20 MR. JOFFE: Well, you designated  
21 Bartley on behalf of corporations, HPE,  
22 HPI, and HPFS India.

23 Q. Defendants designated witnesses to  
24 testify, not on just the individual capacity as  
25 you are doing today, but also, in addition, as

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1 J. O'GRADY

2 corporate representatives. For two weeks  
3 defendants have been assuring me that you will be  
4 testifying on the very key issue in this case,  
5 the 2013 counterfeit investigation.

6 They canceled the depositions, and

O'Grady Final

7 they undesignated you this morning. Maybe last  
8 night. I don't remember the time.

9 So I was shocked. And I was shocked  
10 to hear that you haven't heard about it.

11 So, but that's your testimony. You  
12 haven't heard that you were supposed to testify  
13 last week as a representative for corporate  
14 defendants. Correct?

15 MR. BUNIS: Objection. Calls for a  
16 legal conclusion.

17 You can answer if you understand.

18 A. I was not aware that I was planned to  
19 be -- testimony last -- give

20 Q. Are you surprised? Are you surprised?

21 MR. BUNIS: Let him finish. Please  
22 let him finish the answer.

23 Are you done with your answer?

24 Q. Are you surprised by that, Mr.  
25 O'Grady? Are you surprised that your lawyers,

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1 J. O'GRADY  
2 without your knowledge, designated, then  
3 canceled, then undesignated you as their

O'Grady Final

4 corporate representative for depositions?

5 MR. BUNIS: Objection. Objection.

6 Calls for a legal conclusion.

7 You can answer if you understand.

8 A. I'm not sure I understand.

9 MR. BUNIS: Let me just point out,  
10 Dimitry. I just want to explain to the  
11 witness. If you don't understand, you  
12 should look at him. He is asking the  
13 questions. Don't look at me. He is the  
14 one asking the questions.

15 Q. -- you will look terrible on video,  
16 but that's okay. That's -- you know.

17 THE VIDEOGRAPHER: One at a time  
18 please.

19 Q. Mr. J.T. Silvestri almost had a heart  
20 attack and ran out of the room when he learned  
21 that he is being videotaped. He didn't want to  
22 come back. Until he made his ultimatum to me  
23 that he will not testify unless I assure him that  
24 his video will not show up on social media  
25 somewhere, or in public. So.

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O'Grady Final

1 J. O'GRADY

2 MR. BUNIS: Is there a question in  
3 there?

4 MR. JOFFE: No. It is about your  
5 comments whom to look at.

6 Q. You are on the video. I'm not kidding  
7 today, Mr. O'Grady. I'm telling you that you are  
8 in much worse position than your prior witnesses,  
9 because I know so much now. If you continue the  
10 coverup, I will catch you. And I will catch you  
11 lying. The consequences will be so severe. I  
12 will get to them in a second. Okay? I haven't  
13 gotten there yet.

14 MR. BUNIS: Okay. I'm just going to  
15 object to this line of questioning,  
16 Dimitry, that this seems to me to be an  
17 effort to try to intimidate this witness  
18 from the very beginning of the deposition.

19 MR. JOFFE: Yes.

20 MR. BUNIS: And I'm going to caution  
21 you that you should not engage in that kind  
22 of line of questioning.

23 And if you do, I really think it is  
24 time that we are going to take some action,

O'Grady Final

25 because you know that it is improper. And

20

1 J. O'GRADY

2 I'm just going to make it clear what you  
3 are doing.

4 THE VIDEOGRAPHER: Gentlemen --

5 MR. BUNIS: It is critical that you  
6 wait for me and that you allow the witness  
7 to finish his answer before you cut him  
8 off, as you have been doing repeatedly to  
9 the questioning in these depositions.

10 Q. Mr. O'Grady, did there ever come a  
11 time where you were asked to collect responsive  
12 documents for this litigation?

13 A. To collect documents?

14 Q. Yes.

15 A. Yes -- yes.

16 Q. I think you said yes, no, yes. Which  
17 one is it?

18 A. No, no. I only said yes.

19 Q. Okay. So you have been asked to  
20 collect documents for this litigation. Yes?

21 A. I have been asked -- I have been asked

O'Grady Final

22 to preserve documents.

23 Q. That's -- no. Hold on. Preserve is  
24 good.

25 Were you asked to collect documents?

21

1 J. O'GRADY

2 A. I was.

3 Q. Let's just separate the two.  
4 Preserving documents is one thing. Actually  
5 collecting, and, you know, forwarding or giving  
6 to somebody is different thing. You agree?

7 A. Yes.

8 Q. So when you said you were asked to  
9 preserve documents, you probably refer to  
10 something known as a litigation hold notice.  
11 Correct?

12 A. I'm not familiar with that name. I  
13 think it was a preservation notice, but --

14 Q. Close enough. I think we are talking  
15 about the same thing because basically is memo or  
16 a paper that tells you that certain documents in  
17 certain relevant time period should be preserved  
18 and not destroyed. Electronic, hard copy,



O'Grady Final

19 everything. Correct?

20 A. Right.

21 Q. That's a hold litigation, or what I  
22 call litigation hold. All right?

23 Well, that's one thing. But my  
24 question was, actually, physically, to go through  
25 your files, emails, texts, and select relevant

22

1 J. O'GRADY

2 documents and give them to somebody, or upload  
3 them to something. That. That. Did you ever do  
4 that? The collection and the uploading. Not  
5 just preserving.

6 A. I did.

7 Q. Who asked you to do that?

8 A. I don't recall the legal person that  
9 asked me. I don't recall the exact name.

10 Q. Okay. But that was somebody from  
11 legal you said. Right? Legal person.

12 A. Yes.

13 Q. When was that, do you recall?

14 A. I don't recall the exact date or  
15 timeframe.

O'Grady Final

16 Q. Well, yeah, my comment's the same. If  
17 you don't recall the exact date, and I don't  
18 expect you to recall the exact date. Nobody  
19 remembers the exact date. But the ballpark at  
20 least, you know. The year at least.

21 MR. BUNIS: If you recall.

22 A. Yeah, I want to be precise. I don't  
23 recall the timeframe.

24 Q. Okay. Was it in 2013?

25 A. Not that I recall.

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23

1 J. O'GRADY

2 Q. 2014?

3 A. Not that I recall.

4 Q. 2016, maybe?

5 A. It may have been nearer to that  
6 timeframe.

7 Q. I already forgot which year we have  
8 gotten to. So not '13. Not '14.

9 You said it was probably '15 or '16?

10 A. I believe you mentioned '16, and I  
11 believe it was closer to that period.

12 Q. Okay. And was that the only time you

O'Grady Final

13 were asked to collect documents, was a kind of a  
14 one-time instruction, please, give us documents.  
15 You collected, and then that's it? Or was there  
16 additional, maybe, call-up attempts to collect  
17 something?

18 A. As far as I can recollect, it was one  
19 time.

20 Q. And were you asked to collect  
21 documents yourself? So, basically, give us your  
22 responsive documents.

23 Or were you asked to give everything  
24 that falls within certain criteria? What was --

25 MR. BUNIS: Objection.

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1 J. O'GRADY

2 Q. -- the judgment which document is  
3 responsive and which is not?

4 MR. BUNIS: I'm going to instruct the  
5 witness not to answer. You are asking for  
6 an attorney-client communication.

7 Q. I'm asking you when you were asked to  
8 select documents, your responsive documents --  
9 right -- were you given some instructions what to

O'Grady Final

10 do?

11 Or you were just told exercise your  
12 judgment. Give us your responsive documents.

13 Do you understand the question?

14 MR. BUNIS: That's a compound  
15 question.

16 You can't answer that question. It is  
17 too important.

18 Can you break it down, please.

19 Q. Were you given instructions what and  
20 how to collect, or were you just told, please  
21 assemble the responsive documents?

22 MR. BUNIS: No. That's the same  
23 compound question. Break it down. You are  
24 going to have to ask him two different  
25 questions. It is too close to privileged

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1 J. O'GRADY

2 information.

3 Q. What did you do with those documents  
4 that you collected? How did you physically, or  
5 electronically, transmit them to the person  
6 asking?

O'Grady Final

7           A.    I believe I put them on a shared  
8   drive.

9           Q.    You are the first person who mentioned  
10   share drive of all your reports, J.T. Silvestri,  
11   Harris and others.  Nobody remembered any share  
12   drive.  And you said it was in 2016 to the best  
13   of your recollection?

14          A.    To the best of my recollection I said  
15   that that period sounded closer than any other  
16   period that you mentioned.

17          Q.    That was after we filed the lawsuit  
18   already.  That's the difference.

19                2014, '15, '14, '13, there was no  
20   lawsuit.  '16 there was already a lawsuit.  So  
21   there is an important threshold there.

22                And you have been asked to collect  
23   documents on share drive.  Where have you heard  
24   about share drive, Mr. O'Grady?

25                MR. BUNIS:  I'm sorry, what was the

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1                               J. O'GRADY

2           question?

3           Q.    You are sitting here today.  You

O'Grady Final

4 remember specifically the term share drive, that  
5 somebody asked you in 2016 to upload your  
6 documents on?

7 MR. BUNIS: Objection. Misstates his  
8 prior testimony.

9 Q. Okay. Please explain what was that  
10 share drive.

11 MR. BUNIS: If you understand.

12 A. I understand.

13 Q. You said share drive. I didn't put  
14 the words in your mouth. I'm asking you what is  
15 this share drive you mentioned?

16 A. Again, it was a while back, and I  
17 believe -- I believe I had them on a thumb drive,  
18 and then was asked to upload it to a share drive  
19 online. That's the best of my recollection.

20 Q. Well, let's unpack it. What was the  
21 thumb drive? Whose thumb drive was that?

22 A. My thumb drive.

23 Q. So you took your thumb drive. You  
24 uploaded documents on the thumb drive. Right?  
25 And then you said share drive. That's why I'm

↑

27

O'Grady Final

1 J. O'GRADY

2 not sure. How did the documents get from your  
3 thumb drive to the share drive?

4 A. They were copied from the thumb drive  
5 to the share drive.

6 Q. By whom?

7 A. By myself.

8 Q. So you collected your responsive  
9 documents. You put them on a share drive. You  
10 took that share drive, and what? You plugged it  
11 in share -- I mean, the documents from thumb  
12 drive were copied by you onto a share drive. Is  
13 that your testimony?

14 A. I don't exactly remember how I  
15 provided them. That's the best of my  
16 recollection that I have.

17 Q. Well, yes, Mr. O'Grady. You see my  
18 problem is? That you just mentioned the share  
19 drive, and it doesn't really fit into this whole  
20 picture of your document collection. What share  
21 drive? Is it the box that you plug in your thumb  
22 drive?

23 Please explain to me what is share  
24 drive.

O'Grady Final

25 MR. BUNIS: If you understand.

↑

28

1 J. O'GRADY

2 Q. Well, you mentioned it, Mr. O'Grady.

3 I didn't bring it up. You said in '16 you  
4 uploaded your documents on the share drive. Then  
5 thumb drive came in. Now I want to understand  
6 what is it that you are talking about.

7 Nobody else mentioned share drive  
8 except defendants in their sworn papers, and you  
9 today. And I want to explore that.

10 MR. BUNIS: Well, what's the question?

11 Q. I just told the question. What was  
12 the share drive? And how did you get the  
13 documents from your thumb drive into the share  
14 drive? Please. You are under oath on the video.

15 A. Again, to get a file from a thumb  
16 drive to another drive, whether it is an online  
17 drive or a hard disk drive that is on the machine  
18 that you are working on, it is just a matter of  
19 copying that file to it.

20 Q. Yes. Mr. O'Grady, I know what copying  
21 files -- we can copy, how we call it copy files.



O'Grady Final

22 Right?

23 What struck me is you mentioned

24 unsolicited of share drive. And it is not a

25 thing that -- you know, what thumb drive, I can

↑

29

1 J. O'GRADY

2 imagine how it looks like. I have a thumb drive

3 right here. Okay?

4 You agree with me, this is a thumb

5 drive. Right? Right?

6 I put it in my computer. I put my

7 documents on it, I put, I can save my emails, my

8 work files, my PDF. I know what it is. I can

9 plug it in computer. I can do something else.

10 What did you do with your thumb drive?

11 I don't know what share drive is. Is

12 it a big box? A computer box? What is it? You

13 said you plugged it in share drive.

14 I want to understand, please explain

15 to me what is a share drive. A machine? A

16 cloud? A website? What is it?

17 MR. BUNIS: Objection. Vague.

18 You can answer it --

O'Grady Final

19 Q. Mr. O'Grady, simple question. You  
20 said here ten minutes ago, you took your  
21 documents, downloaded them in share drive.  
22 Please tell me what that is. If you know.

23 A. I don't have the exact technical term  
24 for share drive, but it is a location, a virtual  
25 location in a public or private cloud.

↑

30

1 J. O'GRADY

2 Q. And how did you download the thumb  
3 drive files into this public, whatever, location  
4 you described? How did you do it? What did you  
5 plug them into?

6 A. It would be just plugging the thumb  
7 drive in a computer. Pulling, dragging the file  
8 from one drive location to an online drive  
9 location.

10 Q. Okay. How many files do you think you  
11 copied that way?

12 MR. BUNIS: If you know.

13 A. I don't know.

14 Q. Ten? Hundred? Thousand? Or 10,000?  
15 Just give me a ballpark then.

O'Grady Final

16 A. I can't recall the exact number.

17 Q. More than 10, or less than 10? Fewer  
18 than 10?

19 A. I would -- I recall more than ten.

20 Q. Would it be more than hundred, or less  
21 than hundred?

22 And when I say document, I mean email  
23 is a document. You know, file is a document.  
24 PDF is a document. PowerPoint is a document.  
25 Word document is a document. Text is a document.

31

1 J. O'GRADY

2 Skype conversation is a document. Microsoft Lync  
3 conversation is a document. Microsoft Teams  
4 conversation is a document. Those are all  
5 documents.

6 So how many of those, you, Mr.  
7 O'Grady, uploaded on this share drive?

8 A ballpark. I understand precise  
9 number is impossible. But I want to get the  
10 sense of the volume. You know, it is simple.  
11 What's the volume?

12 A. I would be just gross estimating.

O'Grady Final

13 Less than a hundred.

14 Q. Okay. And that collection of yours  
15 included just emails, or perhaps other documents,  
16 like Word, PDF, PowerPoint, things like that?

17 A. It would include documents like  
18 emails, PowerPoint, and PDF files.

19 Q. And which files? I'm sorry, I didn't  
20 hear the last word.

21 A. PDF.

22 Q. Like, Word document? Would it include  
23 Word or PDF document as well?

24 A. It would.

25 Q. Okay. Did you use smartphone for

↑

32

1 J. O'GRADY

2 business communications in 2010/2013?

3 Smartphone or BlackBerry was at the  
4 time, I think it was a time when we were changing  
5 to smartphones. But you know what I mean. Like,  
6 well, BlackBerry or smartphone. Did you?

7 A. I did.

8 Q. And did you have company-issued phone,  
9 or you had your personal phone? I mean, for

O'Grady Final

10 business communication, did you use a  
11 company-issued or personal phone?

12 A. I don't recall at the time. The  
13 company changed its position? For example,  
14 today, I have to fund the phone myself.

15 I don't recall at that time whether I  
16 personally owned the phone, or the company issued  
17 the phone.

18 Q. Okay. But I guess, either way, the  
19 company would pay for your business usage of the  
20 phone. Right?

21 My bills were horrendous on my cell  
22 phone, but, thankfully, Uncle Phil, we call  
23 Philip Morris, paid for it.

24 So was your business phone usage paid  
25 by HP?

↑

33

1 J. O'GRADY

2 A. Yes.

3 Q. And did you use that phone just for  
4 phone calls, also for other type of electronic  
5 communications, like emails, texts, messages,  
6 things like that?

O'Grady Final

7 MR. BUNIS: Objection. Compound  
8 question.  
9 You can answer it if you understand  
10 it.

11 A. Could you repeat the list.

12 Q. Yes. Well, the list is electronic  
13 communications that we generally use the  
14 smartphone for. I use my phone to call, but also  
15 to send emails, personal and business, and also  
16 to send texts. You know, I send texts mostly for  
17 personal use, but sometimes for business, too.  
18 So I don't find them convenient for me.

19 But I want to ask you whether you used  
20 your phone for not just calls, but also emails or  
21 texts or messaging. Like that.

22 MR. BUNIS: And this is 2010/2013.

23 MR. JOFFE: Yes.

24 Q. Yes. Mr. O'Grady, just to make sure,  
25 not tricking you. Okay?

↑

34

1 J. O'GRADY

2 My focus here is on 2010/2013, unless  
3 I specifically ask you, like you downloaded the

O'Grady Final

4 documents on share drive in 2016. I will ask you  
5 about '16. But, generally, my questions are  
6 about the relevant period. You understand that?

7 A. Yes.

8 Q. Okay. I'm not trying to trick you.

9 All right? So, yes, it is in 2013.

10 How did you use your phone for  
11 business communications? That's my question.

12 A. I used my phone in a business  
13 capacity, and occasionally in a personal  
14 capacity.

15 Q. But in a business capacity you used it  
16 to send texts, emails or messages. Correct?

17 A. Yes.

18 Q. And I have also heard that you guys  
19 have this Microsoft Lync or Microsoft Teams  
20 application on your work stations.

21 Did you use Microsoft Lync or  
22 Microsoft Teams or Skype for business  
23 communications? Again, during that period.

24 MR. BUNIS: Objection. Compound  
25 question.

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35

O'Grady Final

1 J. O'GRADY

2 You can answer if you understand.

3 A. I believe I understand the question.

4 I'm not sure the name of the software  
5 in 2013/'14. It could have been Lync. It could  
6 have been Skype. I don't know the name of it,  
7 but it was one of those.

8 Q. Okay. The names I'm using is what we  
9 have heard from other witnesses.

10 Again, I'm not making up. Somebody  
11 said I used Microsoft Lync. That's why I'm  
12 asking you. No tricks. But, okay.

13 So when you collected, I take it you  
14 first collected everything on a thumb drive like  
15 this. Right? On a thumb drive.

16 Did you put your text messages from  
17 your phone on a thumb drive, for example?

18 A. I put any document that was related,  
19 that I was asked to collect onto the thumb drive.  
20 I don't --

21 Q. All right. My question was  
22 specifically about text messages.

23 A. Like you mentioned, I'm not a text  
24 person. So I don't use texting in business a



O'Grady Final

25 lot. I don't recall any texts that were related

36

1 J. O'GRADY

2 to the collection request.

3 Q. Well, Mr. O'Grady, that's not exactly  
4 answering my question. You know. And you would  
5 agree with me, there are two ways you can kind of  
6 think about it.

7 One way is, you want to collect the  
8 documents. You actually go and look for. Like,  
9 let me see if I have texts. You know. Few or  
10 many, I don't -- well, at that point I don't  
11 care. I just understand what I'm going to  
12 search. Am I going to search my texts? Am I  
13 going to search my Skype conversations? For  
14 relevant stuff. Right? Whether you find it or  
15 not, or how many, that's the second question.

16 But did you even search your texts or  
17 your messages, like those we mentioned, Lyncs or  
18 Teams or Skype? Did you even search them for  
19 relevant documents?

20 MR. BUNIS: If you recall.

21 A. The way my -- at the time I don't

O'Grady Final

22 know, again, if it was Lyncs or Skype, is, I do  
23 not have it set up to store history.

24 So once I Lync or Skype, as soon as I  
25 exit the application, that history is gone. But

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37

1 J. O'GRADY

2 I did search it, but --

3 Q. Well, I want to know --

4 MR. BUNIS: Let him finish. He is  
5 finishing his answer.

6 Finish your answer.

7 A. I did search it, but, as I mentioned,  
8 there is no history there.

9 Q. I'm sorry, did you say you did search  
10 it, or you didn't search it?

11 A. I did search it.

12 Q. Okay.

13 A. But there is no history to search.

14 Q. And you searched that application that  
15 we don't quite remember the name, but it falls  
16 into this Microsoft Lync, Team or Skype. Right?  
17 So we have that application.

18 You said that you delete all the

O'Grady Final

19 messages instantaneously upon concluding, or  
20 close enough upon concluding, so you don't have a  
21 history of conversations in that application.  
22 Correct?

23 MR. BUNIS: Objection. Misstates his  
24 prior testimony. The witness never said he  
25 deleted anything. That's very important.

38

1 J. O'GRADY

2 MR. JOFFE: Wait second. Okay.

3 Q. Mr. O'Grady, what did you say? What  
4 happens with your Lync, Skype or Teams  
5 conversations?

6 A. There is a feature in the application  
7 where you can set it so that it retains the  
8 history, or it deletes -- not deletes. It  
9 eliminates -- it doesn't store the history.

10 So as soon as I exit out of the  
11 conversation, that history is not available to  
12 me.

13 Q. Well, Mr. O'Grady, what we have heard  
14 is that you've received litigation hold notice.  
15 I think we have heard from other witnesses

O'Grady Final

16 sometimes early 2014, or maybe even late 2013.

17 Do you recall receiving litigation hold or

18 preservation, as you said, notice?

19 MR. BUNIS: Objection: asked and

20 answered.

21 You can answer.

22 Q. You did. I think you testified.

23 A. Yes.

24 Q. So once you received that preservation

25 notice, did you change the settings on your Lync,

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39

1 J. O'GRADY

2 Skype, dash, Teams messaging application? Did

3 you change the settings to save the conversations

4 perhaps?

5 A. No.

6 Q. Did the company change the settings

7 for people who were subject to the litigation

8 hold notice?

9 MR. BUNIS: If you know.

10 A. I don't know.

11 Q. If you know.

12 Okay. So then that thumb drive we

O'Grady Final

13 would not expect to see text messages in the  
14 thumb drive. Correct? Your collection of  
15 documents in the thumb drive.

16 MR. BUNIS: Objection. Calls for  
17 speculation.

18 You can answer, if you can.

19 Q. I mean, if you didn't collect them, or  
20 if you didn't preserve them, then we wouldn't  
21 expect to find them there. Right? Correct?  
22 Right?

23 MR. BUNIS: Objection. Misstates his  
24 prior testimony.

25 You can answer, if you understand.

↑

40

1 J. O'GRADY

2 A. As I said previously, I searched my  
3 Lync, I believe, or Skype, Teams that you  
4 mentioned. In very recent updates to Skype,  
5 whatever it was, I did search it, but it  
6 virtually would only be any open conversation  
7 that I had at the time that I had that  
8 application open.

9 Q. Okay. I understand. Now I

O'Grady Final

10 understand. Thank you.

11 All right. So but as far as emails,  
12 emails you would upload it to the thumb drive.  
13 Right?

14 A. Yes.

15 Q. I mean, you did use emails for  
16 business communication. Correct? Your reports  
17 were sitting from Malaysia to London, and you in  
18 Massachusetts, you had to have electronic  
19 communications with them. Correct?

20 A. Correct.

21 Q. And the events in question were  
22 happening in India and in China, and you in  
23 Massachusetts. So there must be that flow of  
24 electronic communications just for you to do your  
25 job. Correct?

↑

41

1 J. O'GRADY

2 A. That is correct.

3 Q. So I presume there were a number of  
4 emails responsive to this litigation that you  
5 saved from your thumb drives. Correct?

6 One. Thumb drive. Sorry.

O'Grady Final

7 Correct?

8 A. I recall emails, yes.

9 Q. Do you recall any Word files or PDF  
10 files or PowerPoint files? Non-email files.

11 I can go one by one, but you know what  
12 non-email files mean. Any of them.

13 MR. BUNIS: Objection.

14 Q. Have you downloaded any of those files  
15 to the thumb drive?

16 MR. BUNIS: Objection. Asked and  
17 answered.

18 You can answer.

19 A. I downloaded all the emails. If they  
20 had attachments, I wouldn't know what type of an  
21 attachment it was, but I would have downloaded  
22 the full emails with attachments.

23 Q. Well, attachments are usually files.  
24 Right? They could be Word files. PDF files.  
25 Whatever different electronic documents.

↑

42

1 J. O'GRADY

2 Correct?

3 A. They could be anything. Even another

O'Grady Final

4 email can be attached.

5 Q. Yes. You mentioned before, but that's  
6 right. But you would download your attachments  
7 to your emails into your thumb drive. Right?  
8 And then from that thumb drive, into the share  
9 drive. Correct?

10 A. That is correct.

11 Q. Okay. So whatever documents  
12 responsive to this litigation you have in your  
13 possession on your computer or in your emails or  
14 files attachments, Word, PDF, you would download  
15 on the thumb drive, and that would go to the  
16 share drive. Correct?

17 A. That is correct.

18 Q. Mr. O'Grady, how many documents do you  
19 think defendants produced on your behalf?

20 MR. BUNIS: Objection. Calls for a  
21 legal conclusion.

22 You can answer if you know.

23 A. I don't know.

24 Q. How many would you expect them to  
25 produce?

↑

43



O'Grady Final

1 J. O'GRADY

2 MR. BUNIS: Objection. Calls for a  
3 legal conclusion.

4 You can answer if you know.

5 A. I wouldn't know.

6 Q. Yeah. Well, Mr. O'Grady, would it  
7 surprise you if I tell you that they produced  
8 exactly zero documents from you?

9 MR. BUNIS: Objection. Calls for  
10 legal conclusion.

11 Q. Not a single email. Not a single  
12 file. Not a single PowerPoint. Not a single  
13 PDF. Not a single Word document. Not a single  
14 text, email. Nothing. Zero.

15 Would that surprise you, Mr. O'Grady?

16 MR. BUNIS: Objection. Calls for a  
17 legal conclusion.

18 You can answer if you understand.

19 A. I don't know how to answer that  
20 question.

21 Q. Well, you can tell me if you are  
22 surprised right now. When you sit here right  
23 now, and I ask you, Mr. O'Grady, are you  
24 surprised, I'm not kidding here. I need you to

O'Grady Final

25 answer my questions.

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1 J. O'GRADY

2 Are you surprised that Bunis and  
3 others, told us zero, gave us zero documents from  
4 you, zero, you listed as a custodian who produced  
5 zero documents?

6 Aren't you surprised after you've  
7 collected a hundred of documents or more on your  
8 thumb drive and downloaded on the share drive?  
9 Are you not surprised?

10 MR. BUNIS: I'm going to just caution  
11 you, Dimitry, because, again, your  
12 questioning and your demeanor is  
13 threatening to the witness, and it is just  
14 inappropriate, and I want you to stop.

15 Q. Mr. O'Grady, are you threatened by me?  
16 By my demeanor?

17 You are under oath, Mr. O'Grady. Are  
18 you threatened by my demeanor?

19 A. Not physically, but when someone says  
20 they are going to come at you, then it is very  
21 concerning.

O'Grady Final

22 Q. They are going to do what? What did I  
23 say?

24 A. Very concerning. It is very  
25 concerning to me.

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45

1 J. O'GRADY

2 Q. No, no, no, but what is concerning? I  
3 just didn't hear the word.

4 A. I said when you asked about your  
5 demeanor, I said it would be very -- it's very  
6 concerning to me.

7 Q. But what exactly is concerning?  
8 That's what I'm trying to figure out.

9 If there is anything in my demeanor  
10 that is threatening, or concerning, I want to  
11 know. I want to avoid that. I don't want to be  
12 threatening.

13 A. Got it.

14 Q. You tell me what is in my demeanor  
15 that is threatening. I mean, I ask very sharp  
16 questions, and I will go deeper and deeper and  
17 deeper until I get there. That may be  
18 threatening, but that's not my demeanor. That's

O'Grady Final

19 my manner of cross-examination, Mr. O'Grady.

20 And I tell you, I will get to the  
21 bottom of it. I will tell you something more,  
22 but for now I just want, you know, for us to  
23 understand this. If you tell me that I'm  
24 threatening, something is threatening in my  
25 demeanor, I will work to fix it. If it is just

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46

1 J. O'GRADY

2 the nature of my questioning, that's nothing I  
3 can do about it.

4 So please tell me. And, if not, then  
5 let's move on.

6 MR. BUNIS: Is there a question?

7 MR. JOFFE: Yes. I'm asking whether  
8 Mr. O'Grady finds anything threatening in  
9 my demeanor.

10 MR. BUNIS: Mr. O'Grady has already  
11 answered that question. And he has a  
12 lawyer here sitting next to him that is  
13 going to make sure that your behavior,  
14 including your demeanor, is appropriate for  
15 a deposition in a civil case.

O'Grady Final

16 Q. Mr. O'Grady --

17 MR. BUNIS: And so I suggest that you  
18 would move on and ask questions about the  
19 substance of what you want to know about in  
20 this case. Because on a number of  
21 occasions, Dimitry, you seemed to suggest  
22 that I have been wasting, somehow, your  
23 time.

24 MR. JOFFE: No, no, that's --

25 MR. BUNIS: And I suggest here your

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1 J. O'GRADY

2 conversation with this witness about what  
3 your demeanor is has nothing to do with the  
4 facts and circumstances of this case. So I  
5 encourage you to use your time  
6 appropriately.

7 Q. Before I get to the facts of this  
8 case, Mr. O'Grady, I want to ask you, very  
9 important two questions:

10 Are you prepared to tell me the truth  
11 today?

12 MR. BUNIS: Objection: asked and

O'Grady Final

13 answered.

14 He has already -- you've asked him.

15 The first questions you asked him in this

16 case, in this deposition, was almost

17 verbatim what you just asked him.

18 Q. Okay, Mr. O'Grady. I will ask it

19 slightly differently.

20 Are you prepared to tell me the truth

21 today, even if that truth exposes your employer,

22 HP, to criminal liability? Are you prepared to

23 do that, Mr. O'Grady?

24 MR. BUNIS: Objection. Calls for a

25 legal conclusion. This witness is not here

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48

1 J. O'GRADY

2 to testify about criminal proceedings.

3 Q. Mr. O'Grady, I want to hear your

4 honest answer. Are you going to give me your

5 truthful answers today, even if they will expose

6 HP to criminal liability? Yes or no?

7 MR. BUNIS: Objection: calls for a

8 legal conclusion.

9 You can answer.

O'Grady Final

10 Q. I'm not kidding here. I'm dead  
11 serious.

12 Are you prepared to give me a truthful  
13 answer, if they expose HP to criminal liability?

14 MR. BUNIS: I'm going to object again.

15 And, Dimitry, language like, I'm dead  
16 serious, and the manner in which you are  
17 asking that question, is exactly the type  
18 of demeanor that I just described to you  
19 just before that the witness testified that  
20 he is uncomfortable with. And we're not  
21 going to do this over and over again.

22 MR. JOFFE: You just wait where I'm  
23 going. You just wait. We're just getting  
24 started. Just getting started. Okay?  
25 Save your breath for later.

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49

1 J. O'GRADY

2 Q. Mr. O'Grady, are you prepared to  
3 testify truthfully today even if your testimony  
4 exposes HP to criminal liability?

5 MR. BUNIS: Objection. Calls for a  
6 legal conclusion.

O'Grady Final

7                   You can answer.

8           A.    I believe I, upfront, indicated I  
9    would testify truthfully.

10          Q.    I will put it bluntly to you.  Where  
11   we sit here today, after two weeks of depositions  
12   and what went on.  Okay?  Let me just put it  
13   bluntly.  It is a serious matter.  And you  
14   should --

15               MR. BUNIS:  Hold on.  I'm just going  
16   to caution you, Dimitry.  Before you use  
17   blunt terms, I'm going to tell you that  
18   we're not, if you are in any way going to  
19   threaten this witness, we are going to end  
20   the deposition.  So be very careful.

21               MR. JOFFE:  You should.  Maybe you  
22   will.  Maybe you will.

23          Q.    But I want to be fair with you, Mr.  
24   O'Grady.  So I want to give you a fair warning.  
25   This is a fair warning.  It is not a threat.  I

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50

1                   J. O'GRADY  
2   think I will share it with you.

3                   We believe strongly that what the



O'Grady Final

4 evidence today that we have assembled shows, is  
5 that HP has been involved and still is, in a  
6 coverup that includes perjury, suborning perjury  
7 from witnesses, falsifying records in the court,  
8 submitting false and fraudulent sworn  
9 declarations, and making witnesses lie. Okay?

10 This is going far, far, far, beyond  
11 whatever the labels on the transceivers were.  
12 Okay? This is a case of a fractional justice in  
13 federal proceedings. I have your attorneys with  
14 false sworn declarations. I have falsified ESI,  
15 electronic storage information data, and I'm  
16 going to lay it out and break that coverup, Mr.  
17 O'Grady, and HP will be exposed to criminal  
18 liability. It is just the nature of its  
19 misconduct.

20 And my question to you, Mr. O'Grady,  
21 is whether you want to be a part of that coverup.

22 How long have you been with HP, Mr.  
23 O'Grady?

24 MR. BUNIS: What is the question: How  
25 long have you been with HP?

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O'Grady Final

1 J. O'GRADY

2 Q. How long have you been with HP, Mr.

3 O'Grady?

4 MR. BUNIS: You can answer that

5 question.

6 A. I started in, if I count the

7 acquisitions, so HP bought Compaq --

8 Q. How long have you been with HP? I

9 don't want to hear when they --

10 MR. BUNIS: Let the witness answer the

11 question.

12 Q. Just tell me number of years.

13 MR. BUNIS: Let the witness answer the

14 question.

15 Q. How long have you been with HP?

16 MR. BUNIS: Dimitry, you are not going

17 to cut the witness off.

18 Q. How long have you been with HP?

19 MR. BUNIS: Let the witness answer the

20 question.

21 Q. How long have you been with HP?

22 MR. BUNIS: Do you understand the

23 question?

24 If you do, you can answer it.

O'Grady Final

25 A. Yes. I believe my start date was in

52

1 J. O'GRADY

2 July 1983.

3 Q. That's 27 years if I'm correct. Okay.

4 Listen, that's a long time. I

5 understand that.

6 Let me tell you this, Mr. O'Grady. If

7 you lie today, I will catch you lying. If I

8 catch you lying, you are a part of this coverup.

9 MR. EDGARTON: Let's take a break.

10 Let's take a break while Dimitry calms

11 down.

12 Q. And nobody will protect you. So --

13 MR. EDGARTON: Let's take a break.

14 You need to compose yourself, Dimitry. You

15 need to compose yourself.

16 Q. -- Fifth Amendment. Because if you

17 testify today, you waive it. You waive your

18 Fifth Amendment rights. And if you are part of

19 this coverup, if you lie, if you destroy

20 documents, if you did anything of that, and you

21 lie today in this deposition --

O'Grady Final

22 MR. BUNIS: Stop. We're going to --

23 Q. -- you waive your Fifth Amendment and

24 you are done. We are going to take a break as

25 your counsel asked for. After the break you come

↑

53

1 J. O'GRADY

2 back, and I ask you whether you are going to be

3 part of this coverup or whether you are going to

4 give me a truthful answer.

5 And you can do two things. You can

6 claim: I refuse to answer this on Fifth

7 Amendment grounds. Or you can give me the

8 truthful answer.

9 There is no other choice, Mr. O'Grady.

10 I know all. I have documents. I will

11 lay it out for you after you come back from the

12 break. And I will ask you hard questions.

13 It is not my demeanor. It is my

14 clients who spent time in jail because you

15 fob-off counterfeit equipment to them. Okay?

16 MR. BUNIS: Stop. Stop. Stop.

17 Enough with the diatribe. We are done with

18 this. We are not going to have this any

O'Grady Final

19 more. Let's go off the record.

20 THE VIDEOGRAPHER: Any --

21 MR. BUNIS: We don't need this

22 diatribe any more. We are going off the

23 record.

24 THE VIDEOGRAPHER: Any objections to

25 going off the record?

↑

54

1 J. O'GRADY

2 MR. BUNIS: Let's go off the record.

3 THE VIDEOGRAPHER: Any objections to

4 going off the record?

5 MR. JOFFE: Yes, I want to know how

6 long they need to have a break. Five

7 minutes, ten minutes, 15 minutes?

8 MR. BUNIS: The answer is entirely how

9 long you need to compose yourself, because

10 we are not going to do this anymore. If

11 you --

12 MR. JOFFE: If you are going to go on

13 break, I have --

14 MR. BUNIS: If you continue with the

15 manner in which you are asking these

O'Grady Final

16 questions, and the demeanor, we are going  
17 to end the deposition.

18 MR. JOFFE: -- it is very important  
19 for you, for you, my friend. Not for me.  
20 It is very important for you, too.

21 Q. Mr. O'Grady, I want to make sure that  
22 you understand this is a real fair warning --

23 MR. BUNIS: Let's take a break.

24 Q. We have a reference to ask the US  
25 Attorney's office to have a federal prosecutor

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55

1 J. O'GRADY

2 look at HP's conduct of this litigation because a  
3 number of federal felonies have been committed.  
4 I'm not kidding.

5 When I say that you are under oath on  
6 the video, what I mean is, yes, I will take it to  
7 the court and I will demand that federal  
8 prosecutors start looking into this case. And if  
9 you have a choice today, Mr. O'Grady, it is your  
10 choice, it is you sitting in this chair. You  
11 will be answering my questions. If you lie to me  
12 today, as other witnesses did --

O'Grady Final

13 MR. BUNIS: Stop. Stop. We are going  
14 off the record. This is enough. You are  
15 just yelling at the witness. There are no  
16 questions.

17 THE VIDEOGRAPHER: Mr. Joffe --

18 MR. BUNIS: Let's go off the record.  
19 This is absolutely ridiculous. Stop. We  
20 are going off the record.

21 THE VIDEOGRAPHER: We need to go off  
22 the record.

23 MR. BUNIS: Stop.

24 THE VIDEOGRAPHER: We are going off  
25 the record at 10:05 a.m. We're off.

↑

56

1 J. O'GRADY

2 (Recess: 10:05 - 10:25 a.m.)

3 THE VIDEOGRAPHER: We're back on video  
4 record at 10:25 a.m. Please continue.

5 MR. BUNIS: Dimitry, before you  
6 continue, I just want to put something on  
7 the record, and I'd ask that you allow me  
8 to finish before you interrupt. Okay?

9 MR. JOFFE: Go ahead.

O'Grady Final

10 MR. BUNIS: Based on your conduct,  
11 Dimitry, so far in this deposition,  
12 specifically, threatening the witness, your  
13 unnecessary and counterproductive attitude,  
14 and your intimidating questioning and  
15 demeanor, behavior that the witness has  
16 already articulated concerns about, and,  
17 frankly, concerns that I also have, and  
18 finally -- by the way, this is behavior  
19 that I have asked you repeatedly to change,  
20 both today and in prior depositions, and  
21 you have refused. And then, finally, based  
22 on your most recent attempts to threaten  
23 the witness with criminal prosecution to  
24 obtain or elicit favorable testimony and  
25 gain an advantage in this civil proceeding,

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57

1 J. O'GRADY  
2 based on all of that, I am going to do  
3 something that I have not done in 27 years  
4 of practice. And I am going to end this  
5 deposition.

6 And I would ask that the court



O'Grady Final

7 reporter and the videographer do their  
8 level best to secure the testimony and the  
9 comments of counsel from the totality of  
10 what's been on the record so far, as  
11 quickly and as efficiently as possible, and  
12 if at all possible, in whatever rough form  
13 we can have either of those two mediums, we  
14 would really appreciate it because we  
15 expect that the Court will be interested in  
16 this.

17 And so with that, we are going to end  
18 the deposition.

19 MR. JOFFE: Okay. I will put  
20 something on the record as well.

21 That after the witness testified that  
22 he collected documents, gave them for  
23 production and none of them were produced,  
24 and after I warned the witness that his  
25 truthful answers may expose the company to

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58

1 J. O'GRADY  
2 criminal liability, for all the charges  
3 that I mentioned, and when I made a

O'Grady Final

4 warning, fair warning that we will seek  
5 Mr. -- we will seek the Court, a referral  
6 to federal prosecutors for that. You  
7 refused to answer my question. Not that --  
8 you didn't refuse to answer my questions.

9 I gave you a fair warning that you  
10 should consider a Fifth Amendment waiver in  
11 answering my questions. Then you went for  
12 a break. You came back. And your lawyer  
13 said that the deposition is canceled.  
14 That's for the record.

15 Also, for the record, your deposition  
16 as a 30(b)(6) witness was canceled by  
17 defendants as well, unilaterally. It was  
18 first scheduled for last week. Then it was  
19 scheduled for this week, and in both  
20 occasions defendants unilaterally canceled  
21 all those depositions.

22 So, Mr. O'Grady, we will obviously  
23 bring it up with the Court, all of it, and  
24 we will, hopefully, see you again. I will  
25 request the Court to supervise your

↑

O'Grady Final

1 J. O'GRADY

2 deposition. Okay? And we will do it that  
3 way, next day.

4 MR. BUNIS: Okay. I think we are off  
5 the record.

6 MR. JOFFE: That's it.

7 THE VIDEOGRAPHER: Wait a minute. We  
8 are not off the record yet. All parties  
9 agree to end this deposition?

10 MR. JOFFE: Well, no --

11 THE VIDEOGRAPHER: Any objections in  
12 ending this deposition?

13 MR. JOFFE: We are told in this  
14 matter. We are told. We don't agree to  
15 end the deposition, quite obviously. We  
16 would love to continue with the deposition,  
17 but defendants unilaterally canceled that.  
18 So we agreed to go off the record. That's  
19 true. We don't agree to cancel this  
20 deposition. This deposition will continue.

21 So thank you.

22 THE VIDEOGRAPHER: I am about to end  
23 the video record. Are there any  
24 objections?

O'Grady Final

25 MR. BUNIS: No.

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1 J. O'GRADY

2 MR. JOFFE: No objections to ending  
3 the record.

4 THE VIDEOGRAPHER: This concludes --

5 MR. JOFFE: I reserve my right to  
6 continue this deposition at a later time.

7 THE VIDEOGRAPHER: This concludes the  
8 video conference deposition of James  
9 O'Grady. We ask all participants stay  
10 connected for your transcript and video  
11 orders.

12 Mr. Joffe, you are going to take an  
13 order which would sync. Correct?

14 MR. JOFFE: Yes, absolutely.

15 THE VIDEOGRAPHER: Mr. Bunis, do you  
16 need a copy of the video with sync?

17 MR. BUNIS: I need a copy with sync.  
18 And I just would ask how quickly do you  
19 think we can get it?

20 THE VIDEOGRAPHER: Mr. Joffe, one  
21 moment, please.

O'Grady Final

22 We need it expedited then. Because  
23 normally it is two weeks.

24 MR. BUNIS: Yes. Expedited as soon as  
25 possible.

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1 J. O'GRADY

2 THE VIDEOGRAPHER: Mr. Joffe, do you  
3 need yours expedited?

4 MR. JOFFE: Yes, please.

5 THE VIDEOGRAPHER: Mr. Callaghan, do  
6 you need a copy? I know you are on there.

7 MR. CALLAGHAN: I do not.

8 THE VIDEOGRAPHER: Mr. Desai? Is he  
9 still there?

10 MR. BUNIS: No. One is fine as for  
11 the defendants. Thank you.

12 THE VIDEOGRAPHER: Does the court  
13 reporter have anything left for the record?

14 (Off written record.)

15 MR. BUNIS: Can I just ask the court  
16 reporter how quick do you think you might  
17 be able to get a rough of what we have done  
18 today.

O'Grady Final

19 (Off written record.)

20 THE VIDEOGRAPHER: We are still on.

21 We are reporting transcript and video

22 orders.

23 We are going off the record, November

24 10, 2020 at 10:31 a.m.

25 (Time noted: 10:31 a.m.)

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1

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK )  
: ss.

5 COUNTY OF NEW YORK )

6

7 I, ANNELIESE R. TURSI, a Registered  
8 Professional Reporter and Notary Public within  
9 and for the State of New York, do hereby certify:

10 That the witness whose remote video  
11 deposition taken via teleconference is  
12 hereinbefore set forth, was duly sworn by me and  
13 that such deposition is a true record of the  
14 testimony given by the witness, and that the  
15 witness has not requested to review the

O'Grady Final

16 transcript pursuant to Rule 30(e)(2).

17 I further certify that I am not  
18 related to any of the parties to this action by  
19 blood or marriage, and that I am in no way  
20 interested in the outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto  
22 set my hand this 11th day of November, 2020.

23

24

25 \_\_\_\_\_  
ANNEIESE R. TURSI, RPR

↑

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2 DEPOSITION ERRATA SHEET

3

4 Job No. J6185348

5 Case Caption: Styller v. Hewlett-Packard

6

7 DECLARATION UNDER PENALTY OF PERJURY

8 I declare under penalty of perjury that I  
9 have read the entire transcript of my deposition  
10 taken in the captioned matter or the same has  
11 been read to me, and the same is true and  
12 accurate, save and except for changes and/or

O'Grady Final

13 corrections, if any, as indicated by me on the  
14 DEPOSITION ERRATA SHEET hereof, with the  
15 understanding that I offer these changes as if  
16 still under oath.

17 Signed on the \_\_\_\_\_ day of

18 \_\_\_\_\_, 20\_\_

19 \_\_\_\_\_

JAMES O'GRADY

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DEPOSITION ERRATA SHEET

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JAMES O'GRADY

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JAMES O'GRADY

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2 November 10, 2020  
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O'Grady Final

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EXAM BY

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7

Mr. Joffe

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E X H I B I T S

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FOR IDENTIFICATION

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